atrocities and that too mostly on tribals. They have been uprooted and displaced not once, but thrice, in their lifetime. They were first displaced when you constructed the Rihand dam in the '50s. They went and settled somewhere. Then, came the Singrauli coalmines scheme and unfortunately they were again uprooted in the decade of the '70s. They have again been displaced recently when you constructed—the NTPC project. I have personally seen the families who have been displaced thrice because of your so-called development work. What your committee, which went there—I also went there and I have seen that—is saying is absolutely wrong. The NTPC is really committing atrocities. They are not bothered. They have given employment to only 13 persons. I want a definite commitment from the Minister that a committee of the Parliamentarians will be constituted to go into this. Let a committee of MPs from all the parties go and see this and settle the issue of rehabilitation and resettlement... .. *(Interruptions)*. .. ..

SHRI DIGVIJAY SINGH: The Government should accept this.

SHRI K. V. THANGKA BALU: Sir, our Government is fully committed to the welfare of the Weaker sections. There cannot be two opinions about it ..... *(Interruptions)* Please listen.

SHRI DIGVIJAY SINGH: What listen?

SHRI K. V. THANGKKA BALU: You must listen to what I am saying. *(Interruptions)*.

MR. CHAIRMAN: Please allow the Minister to speak... *(Interruption)*

SHRI DIGVIJAY SINGH: Sir, he is not replying. अजीत जोगी जी ने जो बात कही वह बिल्कुल सही बात कही । ... *(व्यवधान)*...

MR. CHAIRMAN: But, he is beginning the reply. *(Interruptions)* Please listen

SHRI DIGVIJAY SINGH: Sir, he is misleading the House. *(Interruptions)*

MR. CHAIRMAN: Please sit down and listen to him. Then only we will know whether he is misleading the House or not. *(Interruptions)* Please sit down. *(Interruptions)* Please.

SHRI K. V. THANGKA BALU: Sir, first of all, I must say categorically that we are not misleading the House. Secondly, our Government is committed to the welfare of the Scheduled Castes, the Scheduled Tribes and the backward sections of the society. I fully appreciate the sentiments expressed by hon. Members of this House and I am in full agreement with the Members on their concern about the incidents. If any attrocity takes place not only at Rihand but at other places also, we are fully committed to see that corrective measures are taken by our Government. I would also like to say that if the hon. House and the hon. Chairman considers necessary we will see to it that a Parliamentary committee is appointed to go to the site and see the realty of the situation there and report to us. We will take the corrective measures.

MR. CHAIRMAN: That's fine.

Income Ceiling for Creamy Layer for the Reservtaion to OBC

A*445. DR. SANJAYA SINGH: †

SHRI GUNDAPPA KORWAR:

Will the Minister of WELFARE be pleased to state:

(a) what is the present limit of income for treamy layer for the reservation to OBC in Central Government Offices; and

(b) whether Government propose to raise the limit in view of the repeated hikes in come on account of grant of DA; if so, the details thereof and if not, the reasons therefor?

THE MINISTER OF WELFARE (SHRI SITARAM KESRI): (a) and (b) A statement is laid on the Table of the House.

† The question was actually asked on the floor of the House by Dr. Sanjaya Sinh.

Statement

The criteria for determining the 'Creamy Layer' as given in the scheduled to the DOPT's OM of 8-9-1993 is enclosed. (see below) as statement-I (*See* below).

In so far as the persons belonging to the Service Categories are concerned it is only the pay and the pay scale that is the determining factor and not the Dearness Allowance.

In the case of Armed Forces including Para-military Forces it is only rank of the person that matters and not the pay or pay scale or Dearnes Allowance.

Therefore, question of any revision in the 'Creamy Layer' criteria on account of the repeated hikes in income on account of grant of Dearness Allowance does not arise.

Statement I

The Criteria for determination of 'Creamy Layer'

SCHEDULE

Description of category	To whom rule of exclusion will apply
1	2	3
I. *CONSTITUTIONAL POSTS*	Son(s) and daughter(s) of (a) President of India; (b) Vice President of India; (c) Judges of the Supreme court and of the High Court ; (d) Chairman a Members of UPSC and of the State Public Service Commission; Chief Elect of Commissioner; Comptroller & Auditor General of India; (e) Persons holding Constitutional positions of like nature.
II. *SERVICE CATEGORY* A. *Group A/Class I officers of the All India Central and State Services (Direct recruits).* ;	Son(s) and daughter(s) of (a) parents, both of whom are Class I officers : (b) parents, either of whom is a Class I officer: (c) parents, both of whom are Class I officers, but one of them dies or suffers permanent incapacitation. (d) parents, either of whom is a Class I officer and such parent dies or suffers permanent incapacitation and before such death or such in capacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. on a period of not less than 5 years.

1	2	3
		(e) parents, both of whom are Class I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank etc. for a period of not less than 5 years. Provided that the rule of exclusion shall not apply in the following cases: (a) Sons and daughters of parents either of whom or both of whom are Class I officers and such parent(s) dies/die of suffer permanent incapacitation. (b) A lady I belonging to OBC category has go married to a Class-I officer and may herself like to apply for a job.
B.	*Group B/Class II officers of the Central & State Services (Direct Recruitment)*	**Son**(s) and daughter (s) of (a) parents both of whom are Class II officers. (b) parents of whom only the husband is a Class II officer and he gets into Class I at the age of 40 or earlier. (c) parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation; (d) parents of whom the husband is a Class I officer (direct recruit or pre-forty promoted) and the wife is a Class II officer and the wife dies; or suffers permanent incapacitation and; (e) parents, of whom the wife is a Class I officer (Direct Recruit or pre-forty promoted and the husband is a Class II officer and the husband dies or suffers permanent incapacitation. Provided that the rule of exclusion shall not apply in the following cases: Sons and daughters of (a) parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation.

1	2	3
		(b) Parents both of whom are Class II officers and both of them die or suffer permanent incapacitation even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.
	C. *Employees in Public Sector Undertakings etc.*	The criteria enumerated in A&B above in this Category will apply mutatis mutandi to officers holding equivalent or comparable posts in PSUs, banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and positions under private employment. Pending the evaluation of the post; on equivalent or comparable basis in these institutions, the criteria specified in Category VI below will apply to the officers in these institutions.
III.	ARMED FORCES INCLUDING PARA-MILITARY FORCES (Persons holding civil posts are not included	Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces. Provided that:— (i) if the wife of an Armed Forces Officer is herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel. (ii) the service ranks below Colonel of husband and wife shall not be clubbed togther. (iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No. II in which case the criteria and conditons enumerated therein will appy to her independently.
IV.	PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE AND INDUSTRY	
	(I) Persons engaged in profession as a doctor, lawyer, chartered Accountant Income-Tax Consultant, financial or management consultant, dental surgeon engineer, architect, computer specialist, film artists and other film professional, author, playwright, sports person sports professional, media professional or any other vacations of like status .	Criteria specified against Category IV will apply:—
	(II) Persons engaged in trade business and industry	Criteria specified against Category VI will apply:—

1	2	3
		Explanation:
		(i) Where the husband is in some profession and the wife is in a Class II or lower grade employment the income/wealth tax will apply only on the basis of the husbands income.
		(ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/ wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with with it.
V. PROPERTY OWNERS A. *Agricultural Holdings*		Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children which owns. (a) Only irrigated land which is erual to or more than 85% of the statutory ceiling area. or
		(b) both irrigated and unirrigated land ,as follows:
		The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory, ceiling limit for irrigated land (this being calcuated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula exisung, into the irrigated type. The irrigated area so completed from unirrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 80% or more of the stututory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will occur.
		(ii) The roule of exclusion will not apply if the land holding of a family is exclusively unirrigated.
B Plantations		
(i) Coffee, tea, rubber, etc.		Criteria of income/wealth specified in Category VI below will apply.
(ii) Mango, citrus, apple plantations etc.		Deemed as agricultural holding and hence criteria at A above under this Category will apply.
Vacant land and/or buildings in urban areas or urban agglomorations		Criteria specified in Category VI below will apply:
		Explanation: Building may be used for residential industrial or commercial purpose and the like two or more such purposes.

1	2	3
		(a) Persons having gross annual income Rs. 1 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years. (b) Persons in Categrories 1. II. III and V A who are not disentitled to the benefit of reservation but have income from other source of wealth which will bring them within the income wealth criteria mentioned it (a) above. *Explanation* (i) Income from salaries or agricultural land shall not be clubbed; (ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands the istenegnum may be less. *Explanation*: Wherever the expression "permanent incapacitation" occur in this schedule, it shall mean incapacitation which results in putting an officer out of service.

डा० संजय सिंह : महोदय, मंत्री जा ने लंबी लिस्ट दी है कि जिसमें राष्ट्रपति से लेकर सरकारी अधिकारी और कर्मचारियों की लिस्ट है । उनके वेतन के हिसाब से क्रीमी लेयर निर्धारित करते हैं । मैं समझता हूं कि उनका परसंटेज तो बहुत ही थोड़ा होगा । मैं माननीय मंत्रीजो से जानना चाहता हूं कि जो लोग इस तरह से पदों में या सरकारी अधिकारी और कर्मचारी नहीं हैं, उनको क्रीमी लेयर में लिस्ट करने के लिए उनका क्या माध्यम बना है ?

THE MINISTER OF STATE IN THE MINISTRY OF WELFARE (SHRI K. V. THANGKA BALU): Sir, the report is very clear. Nobody outside this area will be affected. The Dearness Allowance is not connected with the concept of creamy layer. So, the hon. Member should not have any apprehension on this score. It is very clear as per the norms cleared by the Government and also as per the Statement that I have given. Those who are excluded will be excluded and the others will not be affected.

डा० संजय सिंह : सभापति महोदय, माननीय मंत्री जी ने जैसा कहा कि इसकी व्यवस्था सिर्फ उन्हीं लोगों के लिए है जो अधिकारी या कर्मचारी वर्ग के हैं या किसी बड़े पद पर हैं । इसका मतलब यह हुआ कि इसके अलावा जो हैं उनको क्रीमी लेयर में डालने या उनको समझने का सरकार का कोई विचार नहीं है । मैं जानना चाहता हूं कि मंत्री जी इसके बारे में स्पष्ट रूप से अपना विचार दे कि जो लोग अधिकारी या कर्मचारी, ओ०बी०सी० के नहीं हैं, जो किसी इम्पलाईमेंट में नहीं हैं, जो किसी नौकरी में नहीं हैं, लेकिन बहुत ही ज्यादा उनकी आमदनी है, तो ऐसे लोगों के निर्धारण के लिए सरकार की क्या व्यवस्था है ? मैं चाहता हूं कि मंत्री जी इसका स्पष्ट जवाब दें ।

SHRI K. V. THANGKA BALU: Sir, that goes as per the Income-tax Act. Those who are having more income apart from the income they are generating from service, have to go by the law of the land.

SHRI GUNDAPPA KORWAR: Sir, my first supplementary is....

MR. CHAIRMAN: You have only one supplementary ... (*Interruptions*).

SHRI GUNDAPPA KORWAR: Sir, all over the country, the Scheduled Caste and the Scheduled Tribe people are very much afraid of the creamy layer system. They are fearing that this creamy layer system which has been applied for the OBCs will also be applied to them. I want to know from the Government whether it wants to apply the creamy layer system for the Scheduled Castes and the Scheduled Tribes as well.

SHRI K. V. THANGKA BALU: the creamy layer, as per the judgement of the hon. Supreme Court, is affecting many deprived Backward Classes from getting the benefit. Most of the parties and important leaders have appealed to the Government to amend, if necessary, the Constitution and give the benefit to them. That is number one. Secondly, for the property owners, on agricultural holdings they have prescribed a ceiling of 85 per cent on dry land. This differs from State to State. While in Tamil Nadu it is much more, in Karnataka it is ery less.

SHRI SOMAPPA R. BOMMAI: Sir, the creamy layer, as per the judgement of the hon. Supreme Court, s affecting many deprtved Backward Clases from getting the benefit. Most of the parties and important leaders have appealed to the Government to amend, if necessary, the Constitution and give the benefit to hem. That is number one. Secondly, for the property owners, on agricultural holdings they have prescribed a ceiling of 85 per cent on dry land. This ceiling differs from State to State. While in Tamil Nadu it is much more, in Karnataka it is very less.

Agriculture on dry land, as you know, is very risky as it depends on ratn. It is very uncertain. Therefore, those people who own dry land should be exempted as they can't get much income from the land. The ceiling for the irrigated land is also different. I want to know whether the Government is prepared to revise its policy and totally exempt the farmers from this creamy layer.

SHRI K. V. THANGKA BALU: Sir, I fully endorse the opinion of the hon. Member, and at the same time, as I mentioned earlier, it is the Supreme Courts directtve by which we are forced to accept the system of creamy layer. As the hon. Member was telling, in the creamy layer concept for irrigated land, upto 88 per cent, the maximum percentage of people above the standard of living i.e. only the big people are excluded at the moment, otherwise all the marginal, sub-marginal and the weaker sections of the socety are getting the benefit of the creamy layer today and there is no difficulty for them as on date. In fact, this issue was discussed in the All-Party Meeting where the majority of the leaders were for the tot exclusion of the creamy layer. Sir, only due to the directive of the Supreme Court we agreed with this proposition. As I mentioned in this House, I assure the hon. Members that as and when any difficulty arises we will be open to make amends. We want to do anything which is good for the OBCs and particularly, Sir, recently, reservation for the OBCs has been started and if any difficulty arises, in course of time we will certainly consider this proposal.

SHRI SOMAPPA R. BOMMAI: What about the amendment of the Constitution?

SHRI K. V. THANGKA BALU: There is no need for amending the Constitution in this regard. We have to change the rules only.

श्री जनेश्वर मिश्र : सभापति महोदय, यह सही है कि सर्वोच्च न्यायालय के फैसले के बाद समाज में मलाईदार परत के नाम पर सरकार मजबूर है पिछड़ों और अति पिछड़ों को न्याय दिलाने के बारे में और कुछ खास किस्म का कदम बढ़ाने के लिए । मैं मंत्री जी से साफ तौर से जानना चाहूंगा कि क्या मलाईदार परत के नाम पिछड़ों में या समाज के जो दलित लोग हैं उन में जो यह जागृति समाजिक न्याय हासिल करने के लिए बढ़ रही थी, समाज के अगड़ों की तरफ से उनमें फूट डालने की कोशिश की गई है और सामाजिक न्याय की वह लड़ाई कमजोर हुई है ? अगर सरकार इस बात को जानत

है क्योंकि बार बार मंत्री जी कह रहे हैं कि सर्वोच्च न्यायालय के निर्णय के बाद सरकार मजबूर हो गई इस दिशा में निर्णय लेने के लिए तो इसका मतलब यह होता है कि मजबूरी में निर्णय ले रहे हैं। क्या सरकार समाज में एक दुरुस्त दिशा देने के लिए क्रीमी लेयर की भावना को सम्पूर्ण रूप से इन्कार कर के सारे पिछड़ों को न्याय दिलाने के लिए कोई ठोस कदम उठायेगी ?

श्री सीताराम केसरी : सभापति महोदय सर्वप्रथम आपके द्वारा सदन को हम यह बताना चाहते हैं कि क्रीमी लेयर के संबंध में हमने सभी विपक्ष के दलों से राय मशविरा किया था और राय मशविरे में इनका दल भी शामिल था, सी०पी०आई०, सी०पी०एम०, भारतीय जनता पार्टी, और जनता दल भी था। जनता दल ने अपनी एक ओपीनियन अलग से जरूर रखी थी और आम सहमति के आधार पर क्रीमी लेयर सुप्रीम कोर्ट की जजमेंट के अनुसार हमने इम्पलीमेंट किया है। इसलिए यह कहना कि हमने पिछड़े वर्गों और अति पिछड़े वर्गों में फूट डालने की बात की है, यह निराधार है, मैं इसका खंडन करता हूं। दूसरी बात मैं यह कहना चाहता हूं कि यह जो क्रीमी लेयर का प्रश्न उठा है, सुप्रीम कोर्ट ने उठाया है। उसके पीछे एक तथ्य यह भी है कि इस देश में जाति एक सत्य है। Caste is the reality in our society. जिस जाति का कोई इयू हो जाता है तो वह जाति अपने लड़कों और रिश्तेदारों की नौकरी खोजती है, समाज की नौकरी नहीं खोजती है। इसलिए यह क्रीमी लेयर का प्रश्न उठा होगा मगर फिर भी हमने यह क्रीमी लेयर सभी विपक्षी दलों के नेताओं से परामर्श करने के बाद ही इम्पलीमेंट किया है।

SHRI G. SWAMINATHAN: Sir Tamil Nadu has a reservation of 69 per cent. As per the latest judgement of the Supreme Court, more than 50 per cent is not allowed. What action is the Government going to take in regard to the Constitutional amendment? We want to have this 69 per cent reservation continued. Because of the Supreme Court judgement we may not be able to provide reservation over and above 50 per cent. We are anxious to know about this.

SHRI K. V. THANGKA BALU: Yesterday there was a meeting of all political party leaders. Almost all the political leaders of the politica parties participated and in that meeting their views were taken. The Government is aware of the issue and we are committed to the welfare of the weaker sections, particularly the SCs/STs and the OBCs. We are doing our best to see that we have a consensus among the political parties. We are moving on that direction. ..*(Interruptions)*...

SHRI G. SWAMINATHAN: Are you going to bring in the Constitutional amendment or not?

SHRI K. V. THANGKA BALU: We had an all-party meeting yesterday and the views of all the political parties were taken. We are pursuing all the aspects and we will come back to the House very soon to see that this issue is addressed properly.

श्री चतुरानन मिश्र : मैं सरकार से जानना चाहता हूं अगर क्रीमी लेयर नहीं रहता तो कितने और आदमी सर्विसेज में जा सकते हैं (व्यवधान) सुनिये क्वेश्चन हमारा है। They are killing he time. ...*(Interruptions)*.... I want to know the number of people who could have been benefited had there been no creamy layer system. This is a clear question.

SHRI K. V. THANGKA BALU: Since we started implementation of the OBC reservation very recently, the process is on now. So far, there is no complaint from any section of the society.

As and when we get any information, certainly, we will look into it and see that corrective measures are taken and also and see that there are no hurdles in the employment opportuntties for the OBCs.

MR. CHAIRMAN: The Question Hour is over.